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Notice of Allowability

Application No.

10/759,048

Examiner

Gary E. Elkins

Applicant(s)

POZZOLI, ALDO

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to examination of the application.
2. ☒ The allowed claim(s) is/are 1-7.
3. ☒ The drawings filed on 20 January 2004 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 20040630
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Gary E. Elkins
GARY E. ELKINS
PRIMARY EXAMINER
ART UNIT ~~3727~~ 3727

Reasons for Allowance

1. The following is an examiner's statement of reasons for allowance: Claim 1 defines over the prior art of record insofar as the claim sets forth a sheet material or blank including a layer of self-adhesive material protected by a removable protective layer provided on the inner flap and removal means being further provided for removing the protective layer by way of automatic devices. The phrase "removal means....automatic devices" is considered to invoke 35 USC 112, sixth paragraph and is construed to cover the corresponding structure described in the specification, i.e. a through hole in the inner flap, and equivalents thereof. The closest prior art of record is the patents to Dehoney, Jr. (cited in the IDS of 30 June 2004) and Redl (listed on the PTO-892). Dehoney, Jr. discloses a protective layer 52 and removal element 40 formed by a perforated tab which is grasped and separated along with the layer 52 during removal. Redl discloses formation of protective cover 19 with an extended end 19a which is grasped and pulled for removal of the cover. Neither the perforated tab nor the extended end portion of the cover as evidenced in the prior art references is considered an equivalent as per MPEP 2183.

2. Each of the prior art structures is capable of performing the identical function of removing the protective layer by way of automatic devices, i.e. by using automatic devices including pinching elements to engage the tab or the extended end of the strip. Each of these structures produces substantially the same result, i.e. removal of the strip. However, neither of these structures is capable of performing the function in substantially the same way. The through hole as described in the specification allows an element from the machine to extend through the flap and engage the protective strip to separate a portion of the strip from the flap. This is considered substantially different than using grasping elements to pull an extended portion of the

Art Unit: 3727

protective strip or to separate a perforated tab portion of the flap. As such, no interchangeability is seen nor are the differences considered insubstantial. Also, a perforated tab or an extend portion is not considered structurally equivalent to a through hole. The elements are formed significantly different within the flap and protective strip.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."